



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

ELIOT COHEN, *et al.*,

Plaintiffs,

-against-

UBS FINANCIAL SERVICES, INC., *et al.*,

Defendants.

12 Civ. 02147 (LGS)

**STIPULATION AND  
~~PROPOSED~~ ORDER TO  
DISMISS WITH PREJUDICE  
PLAINTIFFS' COMPLAINT**

WHEREAS, on April 27, 2011, the plaintiffs in the above captioned action filed a Class and Collective Action Complaint (the "Complaint"), against defendants in the above captioned action (the "Action");

WHEREAS, on December 4, 2012, this Court granted defendants' motion to compel arbitration and stayed the Action (the "December 4 Order"), ECF 90;

WHEREAS, on July 3, 2013, plaintiffs filed a motion for reconsideration of the December 4 Order under Rules 54(b), 60(b)(6) and 60(c)(1) of the Federal Rules of Civil Procedure (the "Reconsideration Motion"), ECF 93;

WHEREAS, on January 22, 2014, this Court denied the Reconsideration Motion in its entirety (the "January 2014 Order"), ECF 113;

WHEREAS, on February 5, 2014, plaintiffs filed a motion for reconsideration of the January 2014 Order to the extent that the January 2014 Order did not provide for dismissal of the Action; or, alternatively, for an order certifying an interlocutory appeal of the December 4 Order (the "February Reconsideration Motion"), ECF 115;

WHEREAS, this Court ordered defendants to file a response of no more than seven pages in length to the February Reconsideration Motion by February 13, 2014, ECF 116;

WHEREAS, the plaintiffs have irrevocably determined not to pursue any of the claims raised by the Complaint in arbitration;

WHEREAS, on February 6, 2014 counsel for the parties discussed the February Reconsideration Motion and agreed to stipulate that an order to dismiss the Action with prejudice should be added to the January 2014 Order; and,

WHEREAS, the parties agree that the plaintiffs may appeal the order of this Court granting defendants' motion to compel arbitration,

IT IS HEREBY ORDERED THAT: the Action shall be dismissed with prejudice, and the plaintiffs may appeal the order of this Court granting defendants' motion to compel arbitration.

IT IS STIPULATED AND AGREED that a facsimile copy of the signature(s) on this stipulation may be treated as an original for all purposes.

Dated: New York, New York  
February 13, 2014

By: Jeffrey G. Smith (By MHA  
upon motion)  
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Attorneys for Defendants, UBS Wealth Management  
Americas, UBS AG and UBS Group

The Clerk of the Court is directed to close this case.

New York, NY  
February 14, 2014

**SO ORDERED**

Lorna G. Schofield  
**HON. LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**